

Steve W. Berman (*pro hac vice*)  
 Emilee N. Sisco (*pro hac vice*)  
 Stephanie Verdoia (*pro hac vice*)  
 HAGENS BERMAN SOBOL SHAPIRO LLP  
 1301 Second Avenue, Suite 2000  
 Seattle, WA 98101  
 Telephone: (206) 623-7292  
 Facsimile: (206) 623-0594  
 steve@hbsslaw.com  
 emilees@hbsslaw.com  
 stephaniev@hbsslaw.com

Benjamin J. Siegel (SBN 256260)  
 HAGENS BERMAN SOBOL SHAPIRO LLP  
 715 Hearst Avenue, Suite 202  
 Berkeley, CA 94710  
 Telephone: (510) 725-3000  
 Facsimile: (510) 725-3001  
 bens@hbsslaw.com

*Counsel for Plaintiffs and the Proposed Classes*

Jeffrey L. Kessler (*pro hac vice*)  
 David G. Feher (*pro hac vice*)  
 David L. Greenspan (*pro hac vice*)  
 Adam I. Dale (*pro hac vice*)  
 WINSTON & STRAWN LLP  
 200 Park Avenue  
 New York, NY 10166-4193  
 Telephone: (212) 294-4698  
 Facsimile: (212) 294-4700  
 jkessler@winston.com  
 dfeher@winston.com  
 dgreenspan@winston.com  
 aidale@winston.com

Jeanifer E. Parsigian (SBN 289001)  
 WINSTON & STRAWN LLP  
 101 California Street, 34<sup>th</sup> Floor  
 San Francisco, CA 94111  
 Telephone: (415) 591-1000  
 Facsimile: (415) 591-1400  
 jparsigian@winston.com

*Counsel for Plaintiffs and the Proposed Classes*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

IN RE COLLEGE ATHLETE NIL  
 LITIGATION

**Case No. 4:20-cv-03919-CW**

**DECLARATION OF JEFFREY L. KESSLER  
 IN SUPPORT OF PLAINTIFFS' MOTION  
 FOR CLASS CERTIFICATION AND  
 APPOINTMENT OF WINSTON & STRAWN  
 AS CO-LEAD CLASS COUNSEL**

Date: May 24, 2023  
 Time: 2:30 p.m.  
 Judge: Hon. Judge Claudia Wilken  
 Courtroom: 2, 4<sup>th</sup> Floor

1 I, Jeffrey L. Kessler, hereby declare, under penalty of perjury, as follows:

2 1. I am a partner and Co-Executive Chairman of Winston & Strawn LLP, counsel for  
3 Plaintiffs Grant House, Sedona Prince, and Tymir Oliver in this matter. I will serve as co-lead trial  
4 counsel for Plaintiffs and am seeking to be appointed class counsel for the proposed classes. I make  
5 this Declaration based on my personal knowledge and in support of Plaintiffs' Motion for Class  
6 Certification and Appointment of Winston & Strawn as Co-Lead Class Counsel.

7 2. I previously served as Co-Chair of Winston & Strawn's internationally known sports  
8 litigation practice. Our sports group's experience is extensive, spanning the full spectrum of the sports  
9 industry. The sports practice is particularly preeminent in representing associations and classes of  
10 collegiate, professional, and Olympic level athletes. My own career has involved numerous landmark  
11 antitrust and other cases seeking to vindicate and protect the legal rights of athletes.<sup>1</sup> In addition to  
12 the landmark sports litigation cases described in more detail below, members of our firm's practice  
13 have represented sports players' unions, sports events organizers, intellectual property licensees and  
14 licensors, media companies, sports agents, governmental entities, coaches, sports leagues, sponsors,  
15 individual athletes, and various other clients involved in litigation matters concerning the sports  
16 industry.

17 3. I currently serve as Co-Chair of Winston & Strawn's internationally known global  
18 antitrust and competition practice. Winston & Strawn's antitrust practice is supported by over 75  
19 attorneys. The practice has extensive experience litigating a wide array of antitrust actions, including  
20 antitrust litigations involving player rights and the business of sports.

21 4. Winston & Strawn is prepared to commit the professionals and resources necessary to  
22 litigate this class action through pre-trial, trial, and any appeals that may arise. As a global law firm  
23 equipped with over 900 attorneys in 16 offices around the globe, Winston & Strawn has the expertise  
24 and resources necessary to represent the proposed classes in this litigation. Our firm's antitrust group  
25 was recently ranked as "Highly Recommended" by Global Competition Review, and U.S. News &  
26 World Report awarded our sports litigation practice "Law Firm of the Year" in 2013, 2018, 2020, and

27  
28 <sup>1</sup> A summary of my relevant antitrust and sports legal experience appears on Winston & Strawn's firm website and is attached to this Declaration as Appendix A.

2022 and deemed our antitrust and competition practice to be a National Tier I practice area on the 2022 “Best Law Firms” list.

5. As noted above, I have extensive experience and expertise in complex class actions and other litigation in the areas of antitrust and sports law. My experience includes representation of the players’ associations for all four major sports leagues in the United States: The National Football League Players Association (herein the “NFLPA”), the National Basketball Players Association (herein the “NBPA”), the National Hockey League Players Association (herein the “NHLPA”), and the Major League Baseball Players Association (herein the “MLBPA”). I also have significant experience representing classes of athletes such as the proposed classes of current and former student-athletes in this litigation.

6. For example, I was co-lead counsel for the NFL player-plaintiffs in *McNeil v. Nat’l Football League*, No. 90-476 (D. Minn. 1990) (also called *Powell & McNeil*) and *Jackson v. Nat’l Football League*, No. 92-876 (D. Minn. 1992), which led to a jury verdict in *McNeil* and a preliminary injunction in *Jackson*, finding the NFL system of player restraints to be an antitrust violation.

7. Subsequently, I served as co-lead class counsel for the NFL players in *White v. Nat’l Football League*, No. 92-906 (D. Minn. 1992), an antitrust class action challenging NFL restraints on the market for player services and seeking injunctive relief. Ultimately, the class action was settled immediately prior to the court’s ruling on the plaintiffs’ motion for a preliminary injunction, resulting in the *White* Stipulation and Settlement Agreement (herein the “SSA”), which led to the establishment of a free agency system for NFL players, commencing in 1993. *See White v. Nat’l Football League*, 822 F. Supp. 1389 (D. Minn. 1993).

8. Thereafter, I continued to serve as co-lead class counsel for the *White* Class for the next 18 years, during which I helped to negotiate each of the four amendments to the *White* SSA approved by the court as being in the best interests of the class. During this 18-year period, I brought numerous proceedings on behalf of the *White* class before the Special Master and in the U.S. District Court to enforce the *White* SSA. The final proceeding I brought for the class under the SSA established that the NFL violated its duties by failing to maximize broadcast revenues for the class in anticipation of

1 the 2011 NFL lockout. *See White v. Nat'l Football League*, 766 F. Supp. 2d 941, 952–54 (D. Minn.  
2 2011).

3 9. In approving the *White* SSA regarding the adequacy of representation, the court held  
4 that “plaintiffs’ counsel had the experience and competence to provide adequate representation to all  
5 class members, as evidenced by their performance on behalf of player plaintiffs in a number of  
6 analogous cases...all of which were before this court.” 822 F. Supp. at 1404. The court also noted in  
7 *White* that “class counsel’s handling of various related actions, beginning with *Powell* [a similar class  
8 action for the players] and continuing through *White*, has been exemplary.” *Id.* at 1405 n.28.

9 10. Further, in 2011, I served as co-lead counsel in *Brady v. Nat'l Football League*, No.  
10 11-639 (D. Minn. 2011), a putative class action filed on behalf of Tom Brady and nine other  
11 professional football players challenging the legality of the NFL’s 2011 lockout under the antitrust  
12 laws. A court-ordered mediation led to a settlement in the case while a motion for summary judgment  
13 in favor of the players was pending. The lockout ended, and the players entered into a new labor  
14 agreement through the NFLPA, protecting their free agency and other legal rights.

15 11. I have also represented multiple classes of professional basketball players litigating  
16 against anticompetitive player restraints. From 1987 to 1988, I served as co-lead class counsel in  
17 *Bridgeman v. Nat'l Basketball Ass’n*, No. 87-4189 (D.N.J. 1987), an antitrust action challenging the  
18 NBA’s system of player restraints. This led to a class action settlement agreement, which I helped to  
19 negotiate, that established a system of free agency in professional basketball. I continued to serve as  
20 class counsel for the *Bridgeman* class until that settlement agreement expired, bringing various actions  
21 to enforce the settlement on behalf of the class. Thereafter, in 1995, I was lead counsel in *Ewing v.*  
22 *Nat'l Basketball Ass’n*, No. 95-411 (D. Minn. 1995), a putative antitrust class action for the players  
23 challenging the NBA’s 1995 lockout. I was then again co-lead counsel for the putative class of NBA  
24 players in *Anthony v. Nat'l Basketball Ass’n*, No. 11-5525 (N.D. Cal. 2011), an antitrust action seeking  
25 to invalidate the NBA’s 2011 lockout. That action was settled with the negotiation of a new agreement  
26 by the NBPA protecting free agency and other player rights.

27 12. I also have represented a class of major league soccer players as lead counsel in *Fraser*  
28 *v. Major League Soccer, L.L.C.*, No. 97-10342 (D. Mass 1997), which asserted antitrust claims against

1 the player restraints of Major League Soccer, and a class of Arena Football League players in *Guidry*  
2 *v. Arena Football League*, No. 00-533 (D.N.J. 2000), which asserted antitrust claims against the player  
3 restraints imposed by the Arena Football League. The latter case resulted in the negotiation of a class  
4 action settlement agreement which, among other things, established free agent rights for Arena  
5 Football League players.

6 13. More recently, I served as class counsel for the current and former members of the  
7 United States Women's National Team of soccer players in *Morgan v. U.S. Soccer Fed'n, Inc.*, No.  
8 19-1717 (C.D. Cal. 2019), where the class members asserted wage discrimination claims against the  
9 United States Soccer Federation (herein the "USSF"). The litigation resulted in a historic class action  
10 settlement, with the USSF agreeing to an equal rate of pay for the men's and women's national teams  
11 moving forward and agreeing to pay the women's players \$22 million to compensate for past  
12 discrimination as well as \$2 million in an account to benefit players in their post-career goals and  
13 charitable efforts.

14 14. I also recently was appointed class counsel for a group of professional swimmers  
15 asserting antitrust claims against the Fédération Internationale de Natation (herein the "FINA") for  
16 using its monopolistic control over Olympic swimming to determine the terms of compensation and  
17 competition for international swimming events outside of the Olympic games and FINA's own  
18 competitions. *Shields v. Fed'n Internationale de Natation*, No. 18-7393, 2022 WL 425359, at \*1–3  
19 (N.D. Cal. Feb. 11, 2022). In appointing Winston & Strawn as counsel for the injunctive relief class,  
20 the court stated that "Winston counsel are experienced in sports-related antitrust class actions and  
21 competent to vigorously prosecute this case." *Id.* at \*13.

22 15. Perhaps most germanely, as Your Honor is aware, I served as co-lead class counsel for  
23 classes of collegiate athletes in *In re Nat'l Collegiate Athletic Ass'n Athletic Grant-in-Aid Cap*  
24 *Antitrust Litig.*, No. 14-2541 (N.D. Cal. 2014). In this antitrust action, we prevailed for the classes in  
25 a ten-day trial establishing that various restraints on player compensation by the NCAA were  
26 violations of the Sherman Act. 375 F. Supp. 3d 1058 (N.D. Cal. 2019). That trial verdict was then  
27 unanimously affirmed by a panel of the Ninth Circuit, and further affirmed by a unanimous decision  
28 of the Supreme Court, allowing schools to make cash payments to student-athletes to encourage

1 academic progress and to incentivize graduating. *See Nat'l Collegiate Athletic Ass'n v. Alston et al.*,  
2 141 S. Ct. 2141 (2021). I argued for the classes before the Supreme Court, and the resulting *Alston*  
3 decision has been widely recognized as a landmark antitrust ruling on behalf of collegiate athletes.

4 16. As a result of my work on behalf of athletes in *McNeil, Jackson, White, Brady,*  
5 *Bridgeman, Ewing, Anthony, Fraser, Guidry, Morgan, Shields,* and *Alston*, as well as my extensive  
6 work on behalf of the NBPA, the NFLPA, the MLBPA, and the NHLPA, among others, I have  
7 unparalleled experience in representing the legal interests of groups of athletes, particularly when  
8 asserting antitrust claims in the context of class actions. I also have great experience in either going  
9 to trial or settling these types of complex cases on behalf of athletes.

10 17. Beyond the courtroom, I have written and lectured extensively about antitrust and  
11 sports law issues. Most recently, and most relevant to the litigation at issue, I co-authored an article  
12 scrutinizing the viability of the NCAA's amateurism model, arguing that direct athlete compensation  
13 would not harm the reputation or attractiveness of college sports. *See Kessler, J. L. & Greenspan, D.*  
14 *L., The NIL in Amateurism's Coffin: How the NCAA's Policy Reversal Shows Once Again That*  
15 *Compensating Student-Athletes Won't Hurt College Sports*, *Journal of Sports and Entertainment Law*  
16 (August 2020).

17 18. In the broader legal community, I have served as a member of the governing Council  
18 of the Antitrust Section of the American Bar Association (herein the "ABA"), as Co-Chairman of the  
19 Publications Committee and Chairman of the International Antitrust Law Committee of the Antitrust  
20 Section of the ABA, and as a member of the ABA's NAFTA Tri-National Committee. I am also a  
21 Lecturer-in-Law at Columbia Law School where I have periodically taught a course on complex  
22 litigation. Lastly, I have previously served as an adjunct law professor at Fordham Law School and  
23 was a founding member of the Board of Advisors of the Georgetown University Study of Private  
24 Antitrust Litigation.

25 19. Representing Plaintiffs with me in this class action will be my partners David Feher,  
26 David Greenspan, and Jeanifer Parsigian. David Feher is Co-Chair of the sports litigation practice.  
27 He has been my partner for decades and has helped successfully lead many of the above referenced  
28

sports litigation matters.<sup>2</sup> During much of our group's sports litigation history outlined above, Mr. Feher has vigorously represented the interests of players, particularly as plaintiffs' counsel in antitrust class actions, to ensure that they retained the benefits of competition for their services. David Greenspan is the other Co-Chair of the sports litigation practice and has also served as counsel in recent years on many of our group's most important sports litigation matters on behalf of players and the players' unions.<sup>3</sup> Mr. Feher and Mr. Greenspan have served with me as principal outside litigation counsel for the NBPA and NFLPA for decades. Additionally, both Mr. Feher and Mr. Greenspan also served as co-counsel in *Alston*. Jeanifer Parsigian is an accomplished antitrust and competition lawyer located in our San Francisco office.<sup>4</sup> She is a vital part of the firm's sports litigation practice and has represented classes of athletes in the *Alston* litigation (in which she was a member of both the trial and appellate teams), the *Morgan* litigation against USSF, and the *Shields* litigation against FINA.

20. Our team's extensive sports litigation experience, particularly in successfully representing players on some of the most important cases involving players' rights in history, positions us as qualified to represent the interests of the college players in this case.

21. Our firm, myself, and my colleagues each have an ethical obligation to zealously represent the best interests of the plaintiffs and the classes they seek to represent. That obligation will require that we devote ourselves solely to advance their interests in this litigation. My colleagues and I are well equipped to co-lead the representation of the putative classes of current and former student-athletes in this action.

22. I am admitted to practice in the State of New York, the U.S. Supreme Court, the Ninth Circuit, and various other federal appellate courts.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

<sup>2</sup> A summary of David Feher's accomplishments and legal experience that appears on Winston & Strawn's firm website is attached to this Declaration as Appendix B.

<sup>3</sup> A summary of David Greenspan's accomplishments and legal experience that appears on Winston & Strawn's firm website is attached to this Declaration as Appendix C.

<sup>4</sup> A summary of Jeanifer Parsigian's accomplishments and legal experience that appears on Winston & Strawn's firm website is attached to this Declaration as Appendix D.

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Executed this 21<sup>st</sup> day of October, 2022 at New York, New York.

/s/ Jeffrey L. Kessler  
Jeffrey L. Kessler



# Appendix A

## Jeffrey Kessler

Partner in New York  
 Co-Executive Chairman & Co-Chair, Antitrust/Competition Practice  
 jkessler@winston.com  
 +1 212-294-4698 (New York)



**Co-Executive Chairman of Winston & Strawn, Jeffrey is one of the world's leading antitrust, sports law, and trial lawyers. He has served as lead counsel in some of the most complex antitrust, sports, and intellectual property litigations in the country, including major jury trials, and has represented a number of U.S. and international companies in criminal and civil investigations in the antitrust, sports law, trade, and Foreign Corrupt Practices Act (FCPA) areas.**

### Services

Antitrust / Competition, Global Cartel Defense, Antitrust Litigation, Complex Commercial Litigation, Technology Antitrust, Sports Litigation, Merger Reviews / Challenges, Government Investigations, Intellectual Property, Patent Litigation, Trade Secrets, White Collar, Regulatory Defense & Investigations, Class Actions, Compliance & Counseling, Asia Competition & Antitrust Counseling, Latin America Antitrust/Competition

### Sectors

Consumer Products, Sports, Media & Entertainment, Technology, New Media & Telecommunications, Health Care & Life Sciences, Financial Services & Banking

### Admissions

New York

### Court Admissions

New York Court of Appeals, Southern District of New York, U.S. Court of International Trade, U.S. Supreme Court, USCA - 11th Circuit, USCA - 1st Circuit, USCA - 2nd Circuit, USCA - 3rd Circuit, USCA - 5th Circuit, USCA - 7th Circuit, USCA - 8th Circuit, USCA - D.C. Circuit, USCA - Federal Circuit

### Education

Columbia University, JD, 1977  
 Columbia University, BA, 1975

Jeffrey Kessler co-chairs Winston's global Antitrust/Competition Practice and is the former co-chair of the firm's Sports Law Practice. Law360 recently named both practices as a "Practice Group of the Year" for their respective categories. He focuses his practice on all aspects of antitrust/competition, sports law, complex commercial litigation, intellectual property (IP), and government criminal and civil investigations. He has served as lead counsel in some of the most complex antitrust, sports law, and IP law cases in the country, including major jury trials, and has represented many U.S. and international companies in criminal and civil

investigations in the antitrust, trade, and Foreign Corrupt Practices Act (FCPA) areas. He successfully defended Matsushita and JVC against claims of a worldwide conspiracy in the landmark U.S. Supreme Court case *Zenith v. Matsushita* and is regarded universally as a leading commentator on international antitrust law. He has also been the lead counsel for important cases involving frontier issues of IP law and lead counsel in numerous government criminal and civil investigations. He is a member of the firm's Videogame, Gaming, and Esports Group, which provides comprehensive legal solutions to companies in the sector.

Jeffrey is also one of the United States' most prominent lawyers regularly engaged in high-profile sports litigation. He has litigated some of the most famous sports-antitrust cases in history, including the landmark college players-brought *Alston v. NCAA* case, in which, following Jeffrey's oral argument, the U.S. Supreme Court unanimously affirmed his and co-counsel's earlier "groundbreaking and disruptive" trial victory against the NCAA in this antitrust challenge to its no-compensation rules; *McNeil v. The NFL*, the watershed antitrust jury trial that led to the establishment of free agency in the National Football League (NFL); and *Brady v. NFL*, which led to the end of the 2011 NFL lockout. Jeffrey's sports sector clients have included the NFL Players Association (NFLPA), the National Basketball Players Association (NBPA), the Arena Football League Players Association, the National Hockey League Players Association, the Major League Baseball Players Association, the National Invitation Tournament (NIT), Wasserman Media Group, SCP Worldwide, MVP Sports, the U.S. Women's National [Soccer] Team (USWNT), the NFL Coaches Association, the Women's Tennis Benefit Association, Endeavor, Super Slam Ltd., Activision Blizzard, Adidas, Klutch Sports, and Players, Inc. Jeffrey has represented various classes of Division 1 college basketball and football players; other college athletes; elite swimmers; NBA, NFL, AFL, and MLS players; the North American Soccer League (NASL); the U.S. Football League; the Overwatch and Call of Duty Esports leagues; the Professional Bull Riders; Relevant Sports Agency, and the Cities of San Diego and Oakland, as well as Alameda County, in various sports law disputes. He negotiated the current free agency/salary cap systems in the NFL and NBA, and successfully represented Latrell Sprewell in his controversial suspension arbitration. In the area of NFL discipline, he represented the NFLPA on behalf of Ray Rice, Tom Brady (in "Deflategate"), Ezekiel Elliott, Adrian Peterson, and the "Bountygate" players. He represented pro bono Oscar Pistorius, the double-amputee athlete, in his successful arbitration to obtain the right to compete against non-disabled athletes around the world. Recently, he achieved a landmark equal pay class action settlement for the members of the USWNT.

This impressive experience led Law360 to name Jeffrey as an MVP for Sports and Betting for four consecutive years (2018–2021). In March 2022 at the *Benchmark Litigation* East Coast Awards, Jeffrey was honored as the Antitrust Litigator of the Year, and the firm was recognized for its work on *NCAA v. Alston*, one of the National Impact Cases of the Year. And Jeffrey is part of the group recognized with GCR's 2022 "Litigation of the Year: Cartel Prosecution" award.

## Experience

- *Jenkins v. NCAA* and *Alston v. NCAA, et al.* – Successfully represented classes of Division 1 college football and basketball players in a landmark antitrust case and successful trial, culminating in a verdict that struck down anticompetitive NCAA rules barring player compensation. Both the Ninth Circuit and Supreme Court later affirmed the trial win, with the Supreme Court issuing a heralded, unanimous decision, after Jeffrey presented oral argument to the Court on the players' behalf. *The American Lawyer* (*Am Law*) recognized both the trial and Supreme Court wins with its highly coveted "Litigator of the Week" (LOTW) honor. Jeffrey is currently representing college players in the *House* litigation against the NCAA, asserting antitrust claims against NCAA restrictions on athlete compensation for rights to their names, images, and likenesses.

- *Zenith v. Matsushita Electric Industrial Co., Ltd.* – Successfully defended Matsushita in a landmark antitrust conspiracy case, in which the Supreme Court established new summary judgment standards
- *McNeil v. NFL* – Won jury verdict for NFL players striking down free agency restrictions under the antitrust laws, a victory which led to the *Reggie White* class action that resulted in a settlement establishing the free agency/salary cap system in the NFL
- *Thales Avionics, Inc. v. Matsushita Avionics Systems Corp.* – Won summary judgment for Matsushita against monopolization charges in the avionics industry
- *U.S. Women's National Team Equal Pay Litigation* – Achieved a groundbreaking, widely reported, and globally acclaimed equal pay class action settlement for the USWNT players in their equal pay and working conditions litigation against the United States Soccer Federation (USSF)
- *Panasonic Corp. of North America* class action defense – Represented Panasonic in its defense of various nationwide consumer class actions in New Jersey and California courts
- *NFL Discipline Cases*– Represented the NFLPA for Tom Brady (in “Deflategate”), Ray Rice, the “Bountygate” players, Ezekiel Elliott, Adrian Peterson, and others in challenging NFL discipline
- *JVC Americas Corp.* class action defense – Represented JVC in national consumer class action defense
- *MDL proceedings* – Has represented and continues to represent Panasonic, Sanyo, NTN, Nippon Seiki, Corning, and other major companies in complex MDL class actions
- *Axcess Global v. Matsushita Electric Industrial Co., Ltd.* – Successfully defended Matsushita in a nine-week jury trial involving claims of breach of contract and fraud, in which the plaintiffs sought US\$750 million and the jury awarded a complete defense verdict
- *NBA Player Class Actions* – Successfully represented various classes of NBA players in different antitrust actions, leading to the current free agency/salary cap system in the NBA and the end of the 2011 NBA lockout
- *DVD Copy Control Association v. Bunner* – Successfully obtained preliminary injunction for DVD Copy Control Association in watershed case challenging theft and distribution of DVD trade secrets over the internet
- *Brady v. NFL* – Successfully represented a class of NFL players in an antitrust action that led to the end of the 2011 NFL lockout
- *Players Inc. v. Gridiron and Athletes First* – Successfully prosecuted two frontier IP litigations challenging the group use of NFL player images on websites
- *J.F. Feesers v. Serv-A-Portion* – Successfully represented plaintiff in major Robinson-Patman Act litigation
- *City of Oakland and Alameda County v. Oakland Raiders* – Obtained summary judgment on behalf of the City of Oakland and Alameda County requiring Raiders to honor the team’s stadium lease and remain in Oakland
- *Minolta and Matsushita State Attorneys General Antitrust Litigation* – Successfully settled separate multi-state antitrust actions alleging resale price maintenance
- *Samsung v. Panasonic* – Represented Panasonic and the SD-3C patent pool against antitrust claims challenging industry standard-setting and patent pool licensing provisions
- *Sprewell v. NBA* – Successfully represented Latrell Sprewell and the NBPA in arbitration reducing controversial suspension and reversing guaranteed contract termination
- *Rowe v. Creative Artists Agency* – Obtained summary judgment for CAA in defense of alleged conspiracy case
- *Metropolitan Intercollegiate Basketball Association v. NCAA* –Successfully represented the NIT in antitrust litigation and jury trial against the NCAA, leading to settlement that protected the future of the NIT

- *Telesat Cablevision, Inc. v. The Nashville Network* – Successfully defended the Nashville Network and Westinghouse Broadcasting against antitrust claims by cable company
- *NBA and NFL arbitrations* – Represented the players associations in numerous arbitrations involving player free agency rights, circumvention claims, collusion claims, salary caps, and various other collective bargaining agreement issues
- *North America Soccer League v. NFL*– Successfully represented original NASL in an antitrust case striking down NFL ownership rules
- *Matsushita Electronics Corp. v. Loral Corp.* – Successfully represented Matsushita in obtaining summary judgment to establish a license defense against patent infringement claims
- *Guidry v. AFL* – Successfully represented class of AFL players in an antitrust case that established free agency in the AFL
- *Belichick v. NFL* – Represented NFL Head Coach Bill Belichick in litigation relating to changing teams from the Jets to the Patriots
- *Matsushita v. Mediatek* – Lead Counsel for Matsushita in major patent litigation
- *Hygrade Milk and Cream Co. v. DiGiorgio* – Successfully defended company in Robinson-Patman Act litigation
- *City of Oakland v. Oakland A's* – Successfully represented the city in franchise valuation arbitration with the Oakland A's baseball team
- *Honeywell v. Victor Company of Japan Ltd.* – Successfully defended JVC against claims of willful patent infringement
- *NFLPA v. NFL* – Successfully represented NFLPA in challenge to provisions of the NFL TV contracts used to fund the NFL 2011 Lockout
- *Ovalar Makine Ticaret Ve Sanayi, A.S. v. Applied Industrial Materials Corp.* – Successfully vacated arbitration award in landmark Second Circuit decision on the standards for determining arbitrator bias
- *Cinram v. Matsushita*– Obtained summary judgment in defense of antitrust claim against the DVD6C patent pool
- *Global Cartel Defense*– Represented major international companies in more than a dozen global cartel investigations, including in the United States, Canada, the EU, Brazil, Mexico, Korea, Japan, Australia, New Zealand, UK, and China
- *Oscar Pistorius v. IAAF* – Won landmark arbitration for Oscar Pistorius, the double-amputee runner, enabling him to compete against non-disabled athletes and to realize his dream of competing in the Olympics
- *North American Soccer League v. USSF* – Represented the new NASL in antitrust litigation against the USSF
- *Successfully represented college athletes at Stanford University and Robert Morris University to restore their varsity sports teams*
- *Continental vs. Avanci* – Successfully defended Avanci in antitrust litigation against its patent licensing platform, and preserved the win on appeal to the Fifth Circuit
- *William Morris Endeavor v. Writers Guild of America* – Represented WME in major antitrust litigation against WGA
- Representing class of elite swimmers in antitrust litigation against Fédération Internationale De Natation (FINA)
- Representing MLBPA in various litigations and grievances
- Representing Relevant Sports Agency in antitrust litigation against the USSF and FIFA



- Representing leading sports agencies, including Endeavor, MVP Sports, Wasserman, and Klutch in litigations and arbitrations over agent movement

*Some of the experience represented here may have been handled at a previous firm.*

## Honors & Awards

Jeffrey has been recognized by *Am Law* as its “Litigator of the Week” (LOTW) in March 2019 and by *The National Law Journal* as a “Litigation Trailblazer” for his historic trial victory on behalf of classes of college football and basketball players in antitrust litigation against the NCAA, striking down the NCAA’s anticompetitive compensation restraints and, again, as its LOTW in June 2021 after he argued the appeal before the Supreme Court and secured a unanimous affirmation of the trial win. Jeffrey also was honored with the LOTW recognition in March 2018 when he defeated plaintiffs’ second attempt to obtain class certification in a major antitrust action against Panasonic and in September 2015 for his team’s victory on behalf of Tom Brady and the NFLPA in the so-called “Deflategate” matter. Jeffrey led the team of lawyers named in February 2022 as LOTW runners-up for their representation of current and former members of the USWNT (soccer) in their landmark settlement of the equal pay portion of their lawsuit seeking to equalize pay and working conditions between the men’s and women’s U.S. national soccer teams as well as the team honored with LOTW recognition in March 2022 for their important Fifth Circuit antitrust win for client Avanci—a joint licensing platform for standard essential patents for the 2G, 3G, and 4G wireless standards.

In December 2021, *Sports Business Journal* (SBJ) named Jeffrey to its 2021 list of “The Most Influential People in Sports Business.” Earlier, in October 2021 and on its 75th anniversary, SBJ recognized Jeffrey as an individual who helped grow the NBA into the global powerhouse it is today, placing him on its list of “Power Players: Outside Counsel.”

Jeffrey’s honors include being named an “Acritas Star,” a recognition for lawyers who have been independently nominated for exceptional work in private practice, named as a “2020 Trailblazer” by *New York Law Journal*, and named as a December 2015 “Litigation Trailblazer” by *The National Law Journal* as one of 50 attorneys who have helped make a difference in the fight for justice. Jeffrey received the John Jay Award from Columbia College for distinguished professional achievement in 2016.

Jeffrey received the Legal Aid Society New York’s 2019 Pro Bono Publico Award, honoring his outstanding and sustained achievements in pro bono services. And he received the Servant of Justice Award from the Legal Aid Society in 2019.

Jeffrey has been recognized by numerous publications, including *The Legal 500 US*, *Chambers USA*, *Best Lawyers in America* (the Top 100 Lawyers in New York), *Elite Trial Lawyers*, and *U.S. News – Best Lawyers®*, for his antitrust, commercial litigation and sports law practices. *The Legal 500 US* 2018 recognized him in Antitrust: Civil Litigation/Class Actions – Defense, Dispute Resolution: International Litigation, and Sports Law. *The Legal 500 US* honored Jeffrey in its Hall of Fame (2020–2022) for Industry Focus: Sport (“Jeffrey Kessler is the most knowledgeable and effective lawyer in America when it comes to antitrust law in sports. He is also extremely responsive and communicative. He goes above and beyond when he takes a case.”). *Best Lawyers®* named him “Lawyer of the Year” for Sports Law in 2021 and 2017 and “Lawyer of the Year” for Antitrust Litigation in 2020. *Chambers USA* 2018–2022 ranked him among the nation’s leading lawyers in Antitrust, Cartel, and Sports Law. *Benchmark Litigation US* has placed him in its “Top 100 Trial Lawyers” list (2017–2023), honored him as the “Antitrust Litigator of the Year” at the 2022 Litigation East Coast Awards, and identified him repeatedly as a “National General Commercial Litigation Star” and “New York Litigation Star” and as one of America’s Top 100 High Stakes Litigators (2017). Jeffrey has been recognized by

*Guide to the World's Leading Antitrust Lawyers*, *Chambers Global*, *Law360* (2015 and 2018 "Sports MVP"), *The National Law Journal's* "Elite Lawyers and Winning Litigators," *Who's Who Legal* (Sports, Competition, and Commercial Litigation numerous times), *The Lawdragon 500 Leading Lawyers in America* (2020 "500 Hall of Fame" inductee), *Lawdragon 500 Leading Litigators in America*, and the 2019 "*Lawdragon 500: The Legends*," and has been repeatedly listed in *Super Lawyers Magazine*, including as the "Top Rated Antitrust Litigation Attorney" and "Top 100 Lawyers in New York." Jeffrey also has been named as one of "The 50 Most Influential People in the Sports Business" by *Sports Business Journal*.

In addition to his practices being named by *Law360* as a Practice Group of the Year for Antitrust/Competition and Sports Law in 2021, the firm's Sports Law Practice has been recognized by *U.S. News – Best Law Firms* as "Law Firm of the Year" for Sports Law for 2012–2013, 2018–2022, and the firm's Antitrust/Competition Practice was named "2015 Team of the Year" in cartel defense by *The Legal 500 US*.

## Activities

Jeffrey is a Lecturer-in-Law at Columbia Law School, where he has taught a course on complex litigation. He has written and lectured extensively on a wide variety of antitrust, sports law, and related topics. Jeffrey has published multiple editions of *International Trade and U.S. Antitrust Law*, a treatise on antitrust and trade law issues in a global economy. He also was co-editor-in-chief of *State Antitrust Practice and Statutes*, published by the ABA Antitrust Law Section. He was a member of the Council and was formerly co-chairman of the Publications Committee and chairman of the International Antitrust Law Committee of the Antitrust Section of the American Bar Association (ABA). He was also a member of the ABA's NAFTA Tri-National Committee and an Adjunct Professor of Law at Fordham Law School. He was a founding member of the Board of Advisors of the Georgetown University Study of Private Antitrust Litigation. Jeffrey is a member of the Board of the Center for Family Representation as well as a former member of the Board of the Legal Aid Society and now the chair of its Board of Visitors. He is also a member of the Board of Visitors at Columbia Law School and a fellow of the International Academy of Trial Lawyers.

## Credentials

Jeffrey received a J.D. from Columbia Law School in 1977, where he was a Kent Scholar and on the board of editors for the *Columbia Law Review*. He received a B.A., *summa cum laude*, from Columbia University in 1975.

## Publications & Speaking Engagements

- Speaker, "Baseball Antitrust Exemption," ABA Antitrust Law Section Webinar, October 14, 2022
- Speaker, "Navigating Per Se and Rule of Reason," 2022 ABA Antitrust Law Spring Meeting, April 6, 2022
- Speaker, "Discussion of NCAA Antitrust Case and Transgender Athletes' Rights," Sport Resolutions, December 7, 2021
- Speaker, 2021 Golden State Antitrust and Unfair Competition Law Institute, November 18, 2021
- Speaker, "A Conversation with Jeffrey Kessler," Seton Hall University, November 3, 2021
- Speaker, "Alston v. NCAA: A Reckoning for the Big Business of College Sports," *Celesq®* webinar, September 14, 2021
- Featured, CNN Films and HBO Max special broadcast of LFG, a documentary about the U.S. Women's National Team (USWNT) for soccer and their fight for equal pay, September 6, 2021
- Speaker, "College Athletics in the Supreme Court Spotlight: Alston v. NCAA," Association of Business Trial Lawyers, July 14, 2021

- Moderator, "Mitigating Risks in U.S. Transactions: CFIUS and Merger Review Tips for Japanese Companies," Winston & Strawn Webinar, June 28, 2021
- Featured, "Litigator of the Week: Jeffrey Kessler Takes the Fight to Get NCAA Athletes Compensated from the Trial Court to the High Court," *The American Lawyer*, June 25, 2021
- Featured, "Vice Versa: College Sports, Inc.," Vice TV documentary, June 9, 2021
- Pocket Part Update to "Parties" Chapter of Commercial Litigation in New York State Courts treatise, 5<sup>th</sup> edition (2021)
- Co-author, "Compliance Challenges for Foreign Investment in the U.S.," *Asia Business Law Journal's Japan Outbound Investment Guide*, 2021 and 2022
- Co-author, "The NIL in Amateurism's Coffin: How the NCAA's Policy Reversal Shows Once Again That Compensating Student-Athletes Won't Hurt College Sports," *Journal of Sports and Entertainment Law* (August 2020)
- Featured, *Balance of Power Podcast*, Bloomberg Radio, June 29, 2020
- Featured, "Brown University Athletes Who Lost Their Sports May Have Their Day in Court," *Sports Illustrated*, June 22, 2020
- Featured, "NCAA Athlete Case Part of Social Justice Push, Atty Says," Law360, June 2, 2020
- Featured, "Litigator of the Week: Winston's Jeffrey Kessler Scores for College Athletes," *The American Lawyer*, March 15, 2019
- Co-author, *International Trade and U.S. Antitrust Law*, 2nd Edition, 2006 (updates through 2019)
- Speaker, "Antitrust Litigation Against the Compensation Restrictions of the NCAA for Division I Football and Basketball Players," 21st Annual Fordham Sports Law Symposium, March 24, 2017
- Speaker, "Designing Antitrust Compliance in a Silicon Valley Culture," 28th Annual All Hands Meeting Hub, November 17, 2016
- Speaker, "NCAA Change and Challenges: A Landscape in Flux," 2015 Jeffrey S. Moorad Sports Law Journal Symposium, April 20, 2015
- Speaker, "Antitrust Theories in Sports Law Cases," Mecklenburg County Bar High-Profile Sports Litigation CLE Program, January 21, 2015
- Co-Chair, IBC Legal's 2013 Advanced U.S. Antitrust Conference, November 7, 2013
- Speaker, "At the Table with the Player's Union," Bloomberg Sports Business Summit, September 10, 2013
- "After Further Review: How the Eighth Circuit's Misinterpretation of the Norris-LaGuardia Act Fumbled the District Court's Ruling in *Brady v. NFL*," *1 Berkeley J. Ent. & Sports L.*, 2012
- "The Supreme Court's Decision in *Dagher*: Canary in a Coal Mine or Antitrust Business as Usual?" *Antitrust*, 2006
- *Inside the Minds: Antitrust Laws*, 2005
- "Strategies for Litigation," *The Litigation Leadership Roundtable*, 2005
- *The Corporate Counselor and Antitrust/The Corporate Counselor's Deskbook*, 2003
- Editorial Board, *Competition Laws Outside the United States*, 2001–2003
- "Protecting DVD Trade Secrets in an Internet World," 2002
- "Understanding Business and Legal Aspects of Sports Industry," Practising Law Institute, Co-Chair, 1999–2000
- "What Justice Breyer Could Not Know at His Mother's Knee: The Adverse Effects of *Brown v. Pro Football* on Labor Relations in Professional Sports," 2000
- Co-Editor-In-Chief, *State Antitrust Practice and Statutes*, 2nd Edition, 1999
- "Consents and Settlement Agreements," *Antitrust Law in New York State*, 1995



- “The New Wave of Antitrust CIDs: What to Do When the Department of Justice Comes Knocking on Your Door,” *The Metropolitan Corporate Counsel*, 1995
- “New International Antitrust Guidelines,” *ANTITRUST*, Summer 1989
- “The Antitrust Legacy of the Reagan Administration,” *The Antitrust Bulletin*, 1988
- “Litigating International Antitrust Cases,” *The Practitioner’s Viewpoint*, 1987
- “S. 1300-H.R. 4831 – An Overdue Antitrust Reform,” *The Antitrust Bulletin*, 1986
- “Integrated Reform Suggested for Antitrust Remedies,” 1983

# Appendix B

## David Feher

Partner in New York  
Co-Chair, Sports Practice  
dfeher@winston.com  
+1 212-294-4613 (New York)



David has been recognized in *Chambers USA – America's Leading Lawyers for Business* from 2005–2022 as “one of the country's leading sports attorneys.” He also was recognized in *The Legal 500 U.S.* 2019 for his work in Sports Law and International Litigation, selected by his peers for inclusion in *The Best Lawyers in America*® 2019–2023 in the field of Sports Law, selected in the first 100 *Lawdragon's* “New Stars” in 2006, and honored in 2010–2019 by *New York Super Lawyers*.

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<b>Services</b>	Litigation, Antitrust / Competition, Antitrust Litigation, Sports Litigation
<b>Sectors</b>	Sports, Media & Entertainment
<b>Admissions</b>	New York
<b>Court Admissions</b>	Eastern District of Louisiana, Eastern District of New York, Northern District of California, Northern District of New York, Southern District of New York, U.S. Supreme Court, USCA – 2nd Circuit, USCA - 5th Circuit, USCA - 8th Circuit, USCA - D.C. Circuit, USDC - District of Columbia
<b>Education</b>	Duke University, JD, 1984 Georgetown University, BA, 1980

David Feher is the co-chair of the firm's Sports Law Practice. He is one of the leading sports lawyers in the country, with extensive experience in complex litigations, negotiations, and arbitrations involving contract, intellectual property, antitrust, and international issues.

He has been outside counsel for the NFL Players Association (NFLPA) and the NBA Players Association (NBPA) for many years. He is one of the prime negotiators of the collective bargaining agreements (CBAs) and antitrust settlements in the NFL (1993, 1996, 1998, 2002, 2006, 2011, and 2020) and the NBA (1995, 1999, 2005, 2011, and 2017).

## Experience

David has represented clients in many prominent sports lawsuits and arbitrations, including:

- **U.S. Women's National Team** (soccer) in the historic fight for equal pay, and other litigation and negotiations with the U.S. Soccer Federation (USSF)
- **North American Soccer League** (NASL) in antitrust litigation against the USSF and Major League Soccer (MLS) regarding USSF sanctioning decisions and other conduct adverse to NASL
- **Classes of Division 1 college basketball and Football Bowl Subdivision players** ("players") in the *Jenkins v. NCAA* landmark antitrust action challenging NCAA and major conference restrictions on competition for player services
- **U.S. double amputee 400m sprinter Blake Leeper** in the eligibility process before the International Association of Athletics Federations (IAAF) and USA Track & Field
- **Owner/organizer of Madrid Open tennis tournament and Ion Tiriac** in scheduling and related disputes with the Women's Tennis Association (WTA)
- **Top European men's professional soccer team** in a dispute with the European soccer federation (UEFA)
- **Oakley** in the Oakley/Rory McIlroy/Nike litigation (concerning a right of first refusal in Mr. McIlroy's contract with Oakley, which resulted in a settlement with Mr. McIlroy)
- **National Invitational Tournament (NIT)** in the *NCAA/NIT* litigation (which resulted in a favorable settlement for the five New York City colleges and universities that operated the NIT)
- **Double-amputee Oscar Pistorius**, as co-lead counsel, in the successful and historic *pro bono* effort to overturn the ban against Mr. Pistorius competing in IAAF track events and the Olympics (which led to Mr. Pistorius competing in the 2012 London Olympics), and **800M World Champion sprinter Caster Semenya** in her initial eligibility dispute with the IAAF
- **One of the lead lawyers for the NFLPA and three NFL players** in the *New Orleans Saints Bounty* Case that overturned the discipline the NFL had imposed on the players for allegedly participating in an undisclosed "pay-for-performance/bounty" program operated by the team
- **All of the major U.S. professional sports player associations** as principal author of the brief submitted on behalf of the associations to the U.S. Supreme Court in the landmark *American Needle* case, which rejected the NFL's efforts to characterize itself as a "single entity" for antitrust purposes
- **Agents and their clients at Creative Artists Agency (CAA), Wasserman Media Group (WMG), and other such firms** in various matters
- **Avon Products, Inc.** in negotiating its sponsorship of the Olympic Games and its licensing contract with Derek Jeter
- **Noted nutritionist and New York Times best-selling author Dr. Joel Fuhrman** in a successful arbitration and negotiation regarding the terms of a joint venture
- **NFLPA** as trial counsel in the *Freeman McNeil/NFL* antitrust trial
- **NFLPA** in the Reggie White and Patrick Ewing class actions
- **NFLPA** in the NFL lockout insurance/network TV contract case
- **Jeremy Lin** in the "Bird Rights" arbitration
- **Drew Brees** in the Franchise Player arbitration
- **Michael Vick** in the roster bonus forfeiture arbitration
- **Terrell Owens** in arbitrations
- **The Arena Football League Players Association** in a class action
- **Bill Belichick** in the New York Jets litigation
- **Latrell Sprewell** in grievance proceedings

In addition, David has represented a number of large U.S. and international companies in various matters and has extensive experience litigating complex commercial disputes. He has negotiated numerous commercial contracts in the sports and other industries. He has been involved in numerous other major cases, including:

- **NASDAQ** in the price-fixing class action
- Successfully defended **Avon Products, Inc.** against a \$100 million false advertising claim in the *C. Johnson v. Avon Products* trial
- Represented the **New York Stock Exchange** in connection with the “decimalization” of NYSE trading operations, and has advised companies involved in price-fixing investigations by the U.S. Department of Justice
- Represented a **Turkish company** in a landmark case successfully vacating an arbitration award on grounds of evident partiality

## Honors & Awards

David has been recognized in *Chambers USA – America’s Leading Lawyers* for Sports Law and Business from 2005–2022 as “one of the country’s leading sports attorneys.” He was recognized by *Lawdragon Magazine’s* “500 Leading Litigators in America” for Complex Litigation, Sports, Antitrust, and IP in 2022. He also was recognized in *The Legal 500 US* 2018 and 2022 for his work in Sports Law and International Litigation, selected by his peers for inclusion in *The Best Lawyers in America*© 2019–2023 in the field of Sports Law, selected in the first 100 *Lawdragon’s* “New Stars” in 2006, and named by *Super Lawyers* to the New York Super Lawyers list from 2010–2022 as a “Top Rated Entertainment & Sports Attorney in New York, New York.”

David is part of the group recognized with *GCR’s* 2022 “Litigation of the Year: Cartel Prosecution” award, as well as being awarded the “2015 Team of the Year” in Cartel Defense by *The Legal 500 US*. Winston & Strawn’s Sports Law Practice has been recognized by *U.S. News & World Reports – Best Lawyers* as “Law Firm of the Year” in Sports Law for 2012–2013 and 2018–2022.

In February 2022, David was among the team of lawyers named as runners-up for “Litigator of the Week” by *The American Lawyer* for their representation of current and former members of the U.S. Women’s National Team (soccer) in their landmark settlement of the equal pay portion of their lawsuit seeking to equalize pay and working conditions between the men’s and women’s U.S. national soccer teams.

## Activities

David is a member of the American Bar Association and the Sports Lawyers Association. He also often writes and speaks on antitrust and sports topics, and served as an Adjunct Professor of Law at the Benjamin Cardozo School of Law.

## Credentials

David received a J.D. from Duke University in 1984, where he was an article editor for the *Duke Law Journal*. He received an A.B., *magna cum laude*, from Georgetown University in 1980.

## Publications & Speaking Engagements

### Publications

- “A Structural Overview of Competition Law as Applied to U.S. Major League Team Sports,” *Concurrences Journal* N° 2-2014, Art. N° 65481, May 2014
- *Inside the Minds: Winning Legal Strategies for Entertainment, Sports, and Media Law*, Chapter (Aspatore Books 2006)
- “The Supreme Court’s Decision in *Dagher*: Canary in a Coal Mine or Antitrust Business as Usual?” *Antitrust*, co-author (Fall 2006 Issue)
- Chapter 12, “The Corporate Counsellor & Antitrust,” *Corporate Counsellor’s Deskbook*, co-author (5th ed.)
- “The Adverse Effects of *Brown v. Pro Football* on Labor Relations in Professional Sports,” *Antitrust Magazine*, co-author (Spring 2000 Issue)

## Speeches and Programs

- Panelist, NYU Sports Law Association 11th Annual Sports Law Colloquium, NYU Law School, “The Future of Name, Image, & Likeness Policy for College Athletes,” New York, NY, March 4, 2022
- Speaker, Tulane Law School, “Tulane Pro Basketball Negotiation Competition,” New Orleans, LA, March 4, 2022
- Harvard Sports Law Symposium, Harvard Law School, “The NCAA, Amateurism, NIL Rights, and California’s ‘Fair Pay to Play’ Act,” October 22, 2021
- Panelist, West Legal Ed Center, “*Alston v. NCAA*: A Reckoning for the Big Business of College Sports,” September 14, 2021
- Panelist, Sports Lawyers Association Virtual Annual Conference, “The NCAA in the Supreme Court: Amateurism, *Alston*, Antitrust, and the Next Step in the Evolution of College Sports,” May 18, 2021
- Speaker, Tulane Law School, “Tulane Pro Basketball Negotiation Competition,” New Orleans, LA, March 2019
- Speaker, Duke Exchange, Duke University Fuqua School of Business, “The Law of College Sports: An Inside Look at NCAA Rules, Infractions, and the Regulation of College Athletics,” Durham, NC, February 10, 2018
- Speaker, Minnesota State Bar Association, “Sports Antitrust: The Rules Off the Field are Changing,” Minneapolis, MN, April 20, 2017
- Speaker, 6th Annual NYU Sports Law Colloquium, “Team Relocations & League Expansion,” New York, NY, April 14, 2017
- Speaker, New York Law School, “Sports Law Symposium,” New York, NY, March 30, 2017
- Speaker, University of Pennsylvania Law School Entertainment & Sports Law Society, 4th Annual Penn Law Sports Law Symposium, “Gender Equality in Sports: On the Field and in the Front Office,” Philadelphia, PA, January 27, 2017
- Panelist, Sports Arbitration, Georgetown International Arbitration Society, Georgetown University Law Center, Washington, D.C., April 19, 2016
- Panelist, ABA Forum on the Entertainment and Sports Industries, 2016 International Legal Symposium on the World of Music, Film, Television, and Sports, Miami, Florida, March 7, 2016
- Speaker, FIFPro Legal Conference 2015, “Legal Legends in Sport and the Future of Sports Law,” Amsterdam, Netherlands, December 14, 2015
- Guest Lecturer, NYU School of Professional Studies, “Sports Economics,” New York, New York, December 1, 2015
- Guest Lecturer, Sports Law, St. John’s University School of Law, October 22, 2015

- Speaker, "An Inside Look at the World of Agents: Past, Present and Future," The Jeffrey S. Moorad Sports Law Journal Annual Symposium 2014, Villanova University School of Law, March 21, 2014
- Panelist, "The Litigation-ization of Sports," American Bar Association, 2013 ABA Annual Meeting, Section of Litigation, San Francisco, California, August 8, 2013

# Appendix C



## David Greenspan

Partner in New York  
Co-Chair, Sports Practice  
dgreenspan@winston.com  
+1 212-294-4616 (New York)



**An accomplished antitrust, sports, and complex-commercial litigator, David counsels clients on wide-ranging matters and represents them both at trial and on appeal.**

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<b>Services</b>	Litigation, Antitrust / Competition, Antitrust Litigation, Complex Commercial Litigation, Class Actions, Sports Litigation, Asia Competition & Antitrust Counseling
<b>Sectors</b>	Sports
<b>Admissions</b>	New York
<b>Court Admissions</b>	Eastern District of Michigan, Eastern District of New York, Southern District of New York, USCA – 2nd Circuit, USCA - 5th Circuit, USCA - 6th Circuit, USCA - 8th Circuit
<b>Education</b>	University of Pennsylvania, JD, 2001 University of Pennsylvania, BA, 1998

In the antitrust arena, David has litigated cases involving alleged cartels, monopoly and monopsony conduct, predatory pricing, price fixing, group boycotts, bid rigging, and other restraints of trade. His practice is balanced between litigation defense, litigation prosecution, and counseling. Representative defense work includes defending alleged cartel activities in multidistrict class actions, defending alleged monopolization under various federal and state antitrust laws, and defending companies in criminal and administrative proceedings brought by the U.S. Department of Justice (DOJ) and international competition authorities. On the plaintiff's side, David has prosecuted group boycotts and other restraints of trade in the sports and entertainment industries, among others. David regularly counsels clients on antitrust matters, including implementing antitrust compliance policies, conducting antitrust trainings, and advising on day-to-day business issues.

David also Co-Chairs Winston's top-ranked Sports Law Practice. One of the nation's leading sports law litigators, David has litigated sports-industry cases involving antitrust law, labor law, licensing, agent regulation, active and retired player rights, and collegiate athlete rights. David has represented all four major U.S.

professional sports players associations, myriad professional athletes and agents, and teams and owners in disputes with their respective leagues. He was trial and appellate counsel in the landmark *Alston v. NCAA* antitrust litigation, wherein the team prevailed at trial and that culminated in a widely reported unanimous Supreme Court victory. Both the stunning trial and Supreme Court wins were recognized by *The American Lawyer* (*Am Law*) via prestigious “Litigator of the Week” wins. David routinely represents the NFL Players Association (NFLPA) and NFL players, including in matters involving Tom Brady, Colin Kaepernick, Ray Rice, Adrian Peterson, Ezekiel Elliott, Eric Reid, Terrell Owens, and Michael Vick.

David is part of the group recognized with GCR’s 2022 “Litigation of the Year: Cartel Prosecution” award for Winston’s historic unanimous Supreme Court victory for college athletes in *Alston v. NCAA*.

## Experience

- *Alston v. NCAA* — Trial, appellate, and Supreme Court counsel for classes of collegiate players in their landmark antitrust victory against the NCAA concerning its restraints on athlete compensation.
- *Johnson v. NFLPA* — Argued Second Circuit appeal affirming summary judgment for the NFLPA.
- *Job Creators Network v. MLB, MLBPA* — Represented the MLB Players Association (MLBPA) in litigation challenging MLB’s decision to move the All-Star Game.
- *In re Automotive Brake Hoses Antitrust Litig.* — Represented Hitachi Metals, Ltd. in defense of bid-rigging claims.
- *WME v. WGA* — Represented William Morris Endeavor Entertainment in antitrust litigation against the Writers Guild of America.
- *Kaepernick v. NFL* — Represented the NFLPA in connection with Colin Kaepernick’s collusion claim against the NFL.
- *NFLMC v. NFLPA (Tom Brady)* — Represented the NFLPA and Mr. Brady in arbitration and litigation challenges to discipline imposed on Mr. Brady in connection with so-called “Deflategate.”
- *NFLPA v. NFL (Saints “Bounty” Discipline)* — Represented the NFLPA and certain NFL players in litigation and multiple arbitrations that resulted in all discipline being vacated.
- *In re Optical Disc Drives Antitrust Litig.* — Represented Panasonic in defense of price fixing claims.
- *NBPA/NBA Player Litigations* and *Brady v. NFL* — Represented NBA players and NFL players in their respective antitrust lawsuits challenging lockouts imposed by the NBA and NFL.
- *In re Refrigerant Compressors Antitrust Litig.* — Represented Panasonic in defense of price fixing claims.
- *Thales v. Panasonic Avionics Corp.* — Represented Panasonic Avionics Corp. in a matter in which Panasonic achieved summary judgment against claims of unlawful monopolization and predatory pricing.
- *Ferguson v. WPT Enterprises, Inc.* — Represented seven of the world’s top poker players in an antitrust lawsuit against the World Poker Tour.
- *In re Dewey Ranch Holdings* — Represented PSE Sports & Entertainment in James Balsillie’s bid to purchase and relocate the Phoenix Coyotes hockey franchise out of bankruptcy.

## Honors & Awards

David has been recognized for his legal acumen by a number of publications:

- Ranked in *Chambers USA* (2018–2022) as one of the nation’s leading attorneys in Sports Law
- Selected by his peers for inclusion in *The Best Lawyers in America*® (2019–2023) in the field of Sports Law
- Recognized in *Benchmark Litigation* (2023) as a “Litigation Star”

- Recognized in *Lawdragon Magazine's* "500 Leading Litigators in America" for Antitrust, Sports, Complex Commercial Litigation and Appeals in 2022
- 2021 and 2019 AAI Antitrust Enforcement Award for Private Litigation
- Recognized as a leading lawyer in *The Legal 500 US* 2022 for his work in Antitrust: Civil Litigation/Class Actions: Defense
- Recognized in *The Legal 500 US* 2010, 2018, and 2021-2022 for his work in Sports Law
- 2016 "Under 40 Hot List" by *Benchmark Litigation US*
- 2016 "Rising Star" by Law360 in its list of four "Sports lawyers under 40 to watch"
- 2016 and 2014 "40 Under 40" by *Sports Business Journal* as one of the top young executives in the sports industry
- 2015 "Leaders in Their Field" and "Up & Coming" rankings by *Chambers USA* for Sports Law
- 2015 and 2014 "Rising Star" by *Super Lawyers*
- 2014 "Rising Star" by the *New York Law Journal* as a top contributor to the practice of law and the community
- 2013 "Rising Star" by Law360 in its list of four Media & Entertainment lawyers under 40 to watch
- 2004 "Rights of Workers" Pro Bono Award from the Legal Aid Society in 2004 for achieving summary judgment in a matter of first impression on behalf of low-income childcare worker

## Activities

- David serves on Winston's Racial Equity Task Force
- David has served as chair of Winston's Associate Evaluation Committee since 2016
- 2016, 2018, and 2019 Law360 Sports Editorial Advisory Board Member
- David formerly served as the chair of the New York City Bar Association's Sports Law Committee

## Credentials

David received a J.D. from the University of Pennsylvania Law School in 2001, and a B.A., *cum laude*, from the University of Pennsylvania in 1998.

## Publications & Speaking Engagements

- Speaker, 25th Annual Fordham Sports Law Symposium, March 11, 2022
- Panelist, University of Pennsylvania Law School, Sports Law Symposium, February 2021
- Co-author, "*The NIL in Amateurism's Coffin: How the NCAA's Policy Reversal Shows Once Again That Compensating Student-Athletes Won't Hurt College Sports*", *Journal of Sports and Entertainment Law* (August 2020)
- Panelist, ABA Section of Antitrust Law Committee, *Collusion in Sports* (May 30, 2019)
- Panelist, Update on Labor Relations, Sports Lawyers Ass'n (May 2019)
- Panelist, ABA Trade, Sports, and Professional Associations Committee, "Hot Topics in Sports and Antitrust" (March 9, 2018)
- Panelist, Fifth Annual Penn Law Sports Law Symposium, Sponsored by Penn Law, COP, and the Entertainment and Sports Law Society (February 9, 2018)
- Panelist, Association of Business Trial Lawyers, Tackling NFL Player Litigation: From Bountygate to Deflategate (February 6, 2018)

- ABA International Committee Monthly Corporate Counsel Update (November 2017)
- Panelist, NYU Law School Sports Law Colloquium (March 2016)
- NYU School of Professional Studies, "Labor Relations in Sports," Guest Lecturer, February 2016
- University of New Hampshire, Professor Michael McCann's Deflategate Course, Guest Lecturer, October 2015
- William B. Bryant Inn of Court, "Deflategate Goes to Federal Court," Guest Lecturer, October 2015
- Panelist, NY State Bar Association Antitrust Law Section Annual Meeting, "Amateur in Name Only? The Intersection Between Antitrust Law and College Athletics," January 2015
- NYU School of Professional Studies, "Labor Relations in Sports," Guest Lecturer, December 2014
- Panelist, CSE Sports Marketing Symposium, "College Sports: The Changing Relationship with Athletes and the Implications on Sports and Sports Marketing," October 2014
- Panelist, Federal Bar Council, "The Role of Federal Litigation in Governing Sports in the 21<sup>st</sup> Century," September 2014
- Panelist, University of Pennsylvania Law School, Sports Law Symposium, February 2014
- CPI Antitrust Chronicle, *Litigating Change in College Sports*, Author, January 2014
- Bloomberg TV, Market Makers, Discussing Alex Rodriguez lawsuit, October 2013
- ABA Section of Antitrust Law: Cartel and Criminal Practice and Economics Committee, "The Economics of Collusion," Moderator, July 2013

# Appendix D

## Jeanifer Parsigian

Partner in San Francisco  
 jparsigian@winston.com  
 +1 415-591-1469 (San Francisco)



**An accomplished antitrust, sports, and commercial litigator, Jeanifer concentrates her practice on civil antitrust litigation with particular expertise in mixed issues of antitrust and intellectual property law, and class actions. She represents clients in some of the most complex antitrust, sports, and intellectual property disputes in the country at the trial and appellate levels. She has represented clients in high-profile matters such as the the landmark Supreme Court decision against the NCAA on behalf of classes of D-I college athletes and Women's National Soccer Team's gender discrimination litigation. Jeanifer was selected as a 2022 *Legal 500* Key Lawyer, a 2021 *Chambers* Ones to Watch, named a *Super Lawyers* "Rising Star," and named one of Law360's Sports & Betting "Rising Stars" of 2022.**

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<b>Services</b>	Litigation, Antitrust Litigation, Antitrust / Competition, Technology Antitrust, Complex Commercial Litigation, Class Actions, Advertising & Consumer Protection, Compliance & Counseling, Global Cartel Defense, Merger Reviews / Challenges, Sports Litigation
<b>Sectors</b>	Sports
<b>Admissions</b>	California
<b>Education</b>	Harvard University, JD, 2012 University of Michigan, BA, 2006

Jeanifer Parsigian is a partner in the firm's San Francisco office, where her practice focuses on all aspects of antitrust/competition, sports law, intellectual property, and complex litigation. She regularly represents major U.S. and multinational corporations in connection with a wide array of federal and state antitrust and competition issues, including monopolization, price-fixing, wage-fixing, merger enforcement, group boycotts, exclusive dealing, tying, price discrimination, unfair competition, and mixed issues of antitrust and intellectual property law relating to Fair, Reasonable, and Non-Discriminatory (FRAND) obligations, standard-setting, patent licensing, and patent misuse. Jeanifer represents clients across multiple industries, including sports and entertainment, financial services, technology, food and beverage, and retail.

In addition to Jeanifer's antitrust experience, she has also represented clients facing patent infringement, employment discrimination claims, and consumer fraud and other business tort and breach of contract claims. She also has experience in alternative dispute resolution, including commercial arbitration and mediation.

She has been recognized for obtaining critical wins for her clients whether at trial, on appeal, or by obtaining complete dismissals. Recently, she successfully defended PetIQ in a private merger challenge, where she argued an appeal to the Ninth Circuit and successfully secured a dismissal of the complaint. Jeanifer also has a major role in Winston's renowned sports practice, successfully trying antitrust claims to a landmark win for college athletes against the NCAA upheld by the Supreme Court, and in a high-stakes, high-profile gender discrimination lawsuit on behalf of the Women's National Soccer Team in their pursuit of equal pay.

In February 2022, Jeanifer was among the team of lawyers named as runners-up for "Litigator of the Week" by *The American Lawyer* for their representation of current and former members of the U.S. Women's National Team in their landmark settlement of the equal pay portion of their lawsuit seeking to equalize pay and working conditions between the men's and women's U.S. national soccer teams. Jeanifer was also named one of Law360's Sports & Betting Rising Stars of 2022 and named as a Lawyer on the Fast Track by *The Recorder* for 2022.

## Experience

### Significant Federal Litigation Matters

- *House v. NCAA*: On behalf of putative classes of student-athletes, the firm is fighting the NCAA for antitrust violations seeking prior damages for restraints on the use of student-athlete names, images, and likenesses. The Winston team beat a motion to dismiss in July 2021.
- *Guden v. Stanford University*: Serving as co-lead plaintiff counsel, filed an action seeking a preliminary injunction to stop Stanford University from terminating eight of its varsity sports teams. As a result of the lawsuit and pending preliminary injunction motion, Stanford announced the reinstatement of all eight eliminated teams. The action was withdrawn as the reinstatement of the teams by Stanford was a complete and total victory in May 2021.
- *Jenkins v. NCAA and Alston v. NCAA et al.*: Representation of classes of college athletes in antitrust in antitrust trial striking down anticompetitive NCAA rules.
- *Morgan vs. USSF*: Representation of a class of Women's National Team soccer players in gender discrimination litigation against the U.S. Soccer Federation.
- *Preston Hollow Capital LLC v. Nuveen LLC*: Representation of global investment manager accused of group boycott claims under the Sherman Act and New York Donnelly Act and tortious interference with prospective business in claims.
- *B&R Supermarket v. Visa et al.*: Representation of defendant Discover Financial Services in a putative class action alleging violation of federal and state antitrust laws in connection with chip card technology.
- *Med Vets Inc. et al. v. VIP Petcare Holdings Inc. et al.*: Representation of PetIQ, a leading company in the pet medicine industry, in a private antitrust merger suit, and successfully obtained full dismissal with prejudice and affirmance at the 9th Circuit.
- *Continental vs. Avanci et al.*: Representation of a wireless connectivity patent portfolio company defending against high-profile monopolization, conspiracy, unfair competition, and breach of contract claims relating to purported FRAND obligations and joint licensing conduct.
- *Super Slam, Ltd. v. ATP Tour, Inc.*: Representation of Owner/organizer of Madrid Open tennis tournament in dispute with Association of Tennis Professionals.
- *Ohio v. American Express*: Representation of Discover Financial Services in Second Circuit and Supreme Court appeals with major industry implications.
- *MegaFon v. HPE*: Representation of MegaFon, a major telecom operator in the Russian federation, in fraud claims relating to failure of key systems upgrade.
- *Global Cartel Defense*: Representation of a major electronics manufacturer in multidistrict, putative class actions alleging conspiracies to fix prices of optical disk drives, lithium ion batteries, and capacitors.
- *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*: Representation of TreeHouse Foods, Inc., Bay Valley Foods, LLC, and Sturm Foods, Inc. in their antitrust lawsuit against Keurig Green



Mountain, Inc. alleging anticompetitive exclusive dealing, conspiracy, monopolization, unfair competition, tying, anticompetitive product redesign, patent misuse, and sham litigation claims.

### Other Relevant Experience

- Representation of a former pharmaceutical executive in an investigation of alleged violations of Food, Drug, and Cosmetics Act.
- Representation of defendant in an arbitration matter alleging breach of contract and antitrust monopolization claims based on alleged abuse of intellectual property rights.
- Representation of plaintiff SunLink Corporation in a contract dispute over solar construction development.
- Representation of defendant Kenwood Investments No. 2, LLC in California court in a motion to compel arbitration in complex contract dispute over development of tribal gaming casino.

### Pro Bono

- Equal Rights Amendment: Involved in the firm's efforts to assist and support the ratification of the Equal Rights Amendment.
- 1983 Civil Rights litigation: Representation of a California inmate in civil rights claim against Richmond Police Department for assault during arrest; conducted depositions of six police officers involved and leveraged effective discovery to five-figure settlement for client.
- Board of Immigration Appeals matter: Representation of a Cameroonian immigrant in a successful appeal of an order denying withholding of removal based on threat of persecution based on sexual orientation.

### Honors & Awards

- *The Recorder's*: Lawyers on the Fast Track, 2022
- *Law360*: Sports & Betting Rising Stars, 2022
- 2022 *Benchmark Litigation* National Impact Case of the Year – Alston v. NCAA
- Recognized in *The Legal 500 US* for Sports Law, 2022
- *Best Lawyers: Ones to Watch in America*, Antitrust Law and Litigation-Antitrust, 2021-2023
- Recognized in *Lawdragon Magazine's* "500 Leading Litigators in America" for Complex Litigation, Antitrust, Sports, IP and Appeals, 2022
- *Super Lawyers* Rising Star, 2020-2021
- 2021 *Bloomberg Law*, "They've Got Next: Antitrust Fresh Face"
- 2019 AAI Antitrust Award for Private Litigation for the work on the NCAA case
- Winston & Strawn recognized with *GCR's* 2022 "Litigation of the Year: Cartel Prosecution" award and "Matter of the Year" for Winston's Supreme Court win in the NCAA Grant-In-Aid Cap antitrust litigation
- Winston & Strawn was named "Law Firm of the Year" in 2020 for its Antitrust/Competition practice by *News & World Report – Best Law Firms®*
- Winston & Strawn was named 2020 "Antitrust Firm of the Year" and 2018 "Antitrust Firm of the Year" by *Benchmark Litigation*
- Winston & Strawn's Antitrust/Competition Practice was awarded "Litigation of the Year – Cartel Defense" by *Global Competition Review*, 2019
- Winston & Strawn's Antitrust/Competition Practice was recognized as a Tier 1 National "Best Law Firm" by *News – Best Lawyers®* in 2019

### Activities



Jeanifer serves on Law360's Sports & Betting Editorial Advisory Board. Jeanifer is an active member of the California Lawyers' Association Antitrust & UCL Section and previously served as a California Young Lawyers Association Liaison to the Antitrust & UCL Section.

## **Credentials**

Jeanifer received her B.A. from the University of Michigan in 2006. She received her J.D. from Harvard Law School in 2012.

## **Publications & Speaking Engagements**

- Speaker, Notre Dame Law School, "Changing Landscape of NCAA Student-Athlete Compensation" (October 22, 2021)
- Speaker, National Association of Women Lawyers Annual Meeting, "Because We're Worth It: Powerful Progress on Pay Equity" (July 22, 2021)
- Speaker, ABA Antitrust Section "Alston in the Supreme Court" (December 4, 2020)
- Speaker, Berkeley Law Symposium on Employment Law & Sports (March 6, 2020)
- Speaker, National Association of Women Lawyers Annual Meeting, "Equal Pay, Equal Play and the Equal Rights Amendment," (November 7, 2019)
- Speaker, Berkley Law Sports & Entertainment Law Conference (April 5, 2019)
- Regular contributor to Winston & Strawn's Competition Corner blog posts and podcast, featuring insights on recent legal developments in the antitrust arena as well as user-friendly guidance and practical tips for compliance.